

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #10	CCRB Case #: 201804137	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/26/2018 1:08 PM	Location of Incident: In front of 1165 Garrison Avenue	Precinct: 41	18 Mo. SOL 10/26/2019	EO SOL 10/26/2019	
Date/Time CV Reported Thu, 05/24/2018 2:44 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 05/24/2018 2:44 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Manish Sharma	10192	949656	041 PCT
2. POM Michael Rodriguez	16673	952181	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Rodriguez	Abuse: Police Officer Michael Rodriguez stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Manish Sharma	Abuse: Police Officer Manish Sharma stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Michael Rodriguez	Abuse: Police Officer Michael Rodriguez threatened to issue summonses to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 24, 2018, § 87(2)(b) filed this complaint via online with the CCRB.

On April 26, 2018, § 87(2)(b) was driving alone in his 2006 silver Acura TL which has five tinted windows. § 87(2)(b) stopped at the traffic light at the intersection of Bryant Avenue and Garrison Avenue in the Bronx and as the light turned green he observed flashing lights behind him. § 87(2)(b) turned left onto Garrison Avenue and stopped his car in front of 1165 Garrison Avenue. PO Michael Rodriguez and PO Manish Sharma, from the 41st Precinct, approached § 87(2)(b)'s car (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). PO Sharma approached on the passenger side while PO Rodriguez approached on the driver's side. PO Rodriguez spoke to § 87(2)(b) and asked him for his driver's license, registration and insurance cards and § 87(2)(b) complied. PO Rodriguez asked § 87(2)(b) if he was smoking, how his court date and last arrest was. § 87(2)(b) stated after answering PO Rodriguez, PO Rodriguez informed him that he could issue him summonses for six violations pertaining to his car since he wanted to be "funny" (**Allegation C: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) informed PO Rodriguez that he was on his way to a funeral. PO Rodriguez handed § 87(2)(b) back his documents and told him he was giving him a break. At that moment, § 87(2)(b) took out his cell phone and began recording the interaction and asked PO Rodriguez to repeat the statement he made pertaining to the summonses. PO Rodriguez did not repeat the statement. § 87(2)(b) was free to leave without being issued any summonses.

The investigation obtained video footage from § 87(2)(b)'s cell phone regarding this incident, however, it did not depict the alleged misconduct as described by § 87(2)(b).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Michael Rodriguez stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Manish Sharma stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) (BR 01, 02, 03) testified that the car he drives has five tinted windows that have a 35% darkness. Once PO Rodriguez and PO Sharma approached his car, he recognized PO Rodriguez from a previous arrest. After PO Rodriguez obtained § 87(2)(b)'s documents, he asked § 87(2)(b) if he was smoking, and whether he had anything inside of his car. § 87(2)(b) informed PO Rodriguez that he was not smoking and had nothing inside of his car.

PO Rodriguez (BR 04) testified that as he was driving along Bryant Avenue, he observed from approximately one car length a gray Acura with heavy tints. He informed PO Sharma of his observation and activated his turret lights and siren to stop the car. As he and PO Sharma approached § 87(2)(b)'s car, he smelled a strong odor of marijuana coming from the car. PO Rodriguez spoke with § 87(2)(b) and asked him for his credentials, however, he did not remember asking if § 87(2)(b) was smoking. PO Rodriguez recognized § 87(2)(b) from a previous arrest once he obtained § 87(2)(b)'s documents. He asked § 87(2)(b) "How's everything?" and § 87(2)(b) informed him that he was going to a funeral. PO Rodriguez decided

to use his discretion and not issue § 87(2)(b) any summonses because he understood what he was going through.

PO Sharma (BR 05) testified that he and PO Rodriguez observed § 87(2)(b)'s car with tints and agreed to conduct a car stop. Once § 87(2)(b) stopped the car, PO Sharma approached the passenger side while PO Rodriguez approached the passenger side, and they both smelled an odor of marijuana coming from the car. As he stood on the passenger side, PO Sharma was unable to hear what was said between § 87(2)(b) and PO Rodriguez.

It is undisputed that § 87(2)(b)'s car windows were tinted during the incident. § 87(2)(g)
§ 87(2)(b). PO Rodriguez and PO Sharma initially observed § 87(2)(b)'s tinted windows which initiated the car stop. § 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b).
§ 87(2)(b).

Allegation (C) Abuse of Authority: Police Officer Michael Rodriguez threatened to issue summonses to § 87(2)(b)

§ 87(2)(b) testified that PO Rodriguez asked him, "How was court? How was your last arrest with me?" and he responded, "You tell me." PO Rodriguez then asked, "You didn't go to court for it?" After § 87(2)(b) stated, "Did you go to court?" PO Rodriguez informed § 87(2)(b) that he could issue him summonses for six violations pertaining to his car since he wanted to be "funny".

PO Rodriguez testified that he did not remember asking § 87(2)(b) anything about going to court or his previous arrest. He informed § 87(2)(b) of the multiple infractions, including an issue with the inspection sticker, tinted windows and the marijuana odor, in which he could be issued a summons for. However, due to § 87(2)(b) informing him he was on his way to a funeral, he decided to not issue § 87(2)(b) a summons. PO Rodriguez stated to § 87(2)(b) "You have all these infractions on your vehicle. I could issue you a summons, but I'm not. You have a wake."

PO Sharma did not hear the conversation between PO Rodriguez and § 87(2)(b)

Although the investigation obtained video footage from § 87(2)(b) (BR 06, 11), it does not capture the entire interaction. However, the video shows PO Rodriguez standing next to § 87(2)(b) and § 87(2)(b) asking him to repeat himself. PO Rodriguez walks away without repeating himself.



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A few minutes later, PO Sharma and PO Rodriguez drive by and stop next to § 87(2)(b)'s car. At 00:03, PO Rodriguez states, "I'm a cut you a break on those tints." § 87(2)(b) asked him to repeat himself. At 00:09, PO Rodriguez informed § 87(2)(b) that he could have issued him

summonses for the violations on his car, but decided to use his discretion because he is on his way to a funeral.



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It is undisputed that PO Rodriguez informed § 87(2)(b) of the violations he had on his car in which he could be summonsed and used his discretion to not issue any summonses. The video footage captured the end of the incident and it appears to be consistent with PO Rodriguez's statement pertaining to his interaction with § 87(2)(b). However the video footage did not capture the incident in its entirety. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- PO Michael Rodriguez has been a member of service for six years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. PO § 87(2)(g)

- PO Manish Sharma has been a member of service for eight years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. PO § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b)
- As of July 31, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 07).

Squad No.: 10

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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